

MINUTES STATE BUILDING CODE COUNCIL

Date: November 12, 2009

Location: SeaTac City Hall

Council Members Present: Peter DeVries, Chair; Jon Napier, Vice Chair; Ray Allshouse; Kristyn Clayton; John Cochran; Mari Hamasaki; Angie Homola; Donald Jordan; Tom Kinsman; Robert Koch; Jerry Mueller; Tien Peng; Dale Wentworth, Representatives Timm Ormsby and Bruce Dammeier, Senator Janea Holmquist, Ron Fuller

Council Members Absent: Dean Bault, John Chelminiak

Visitors Present: Joe Andre, Dick Bower, Pat Dillon, Annie O'Rourke, Sean Martin, Jeff Harris, David Cohan, Sharon Alexander, Terry Thomas, Garrett Huffman, Kim Drury, Gary Nordeen, Jeanette McKague, Mike Wheeler, Brian Minnich, Mike Butler, Michael Barth, Tim Lincoln, Paul O'Connor, Ray Bizal, Gary Franz, Bob Skaggs, Maureen Traxler, Megan Schrader, Jon Dunaway, Randy Miller, Mike Turner, Mark Nelson, Laurie Bischof, Todd Short, Pete Crow, Michael Fitzgerald, John Hogan, Kraig Stevenson, Gary Schenk, Richelle Risdon, Kate Tate, Tom Young, Don Pamplin, Patrick Hayes, Dave Cantrell

Staff Present: Tim Nogler, Krista Braaksma, Sandra Adix

CALL TO ORDER

Peter DeVries, Council Chair, called the meeting to order at 9:05 a.m. Peter welcomed everyone. Introductions were made.

Peter announced that the Council will hold a brief executive session after the Uniform Plumbing Code (UPC) and before the Washington State Energy Code (WSEC). Because the purpose of

today's meeting is to make rulemaking decisions, public testimony will not be accepted. However, Council members may call upon visitors in the audience to provide clarification.

REVIEW AND APPROVE AGENDA

The agenda was reviewed. In addition to the above change by Peter, an interpretation was added under "Staff Report" or "Other Business." With those changes, the agenda was approved as amended.

REVIEW AND APPROVE MINUTES

The minutes of the September 29 and October 5, 2009 Council public hearings were reviewed and approved as written.

PUBLIC COMMENT ON ITEMS NOT COVERED BY THE AGENDA

None received.

RULEMAKING DECISIONS

International Building Code (IBC)

Motion #1:

John Cochran moved amendment of WAC 51-50, to adopt and amend the 2009 International Building Code, as proposed in the CR-102. Tom Kinsman seconded the motion.

Tim Nogler explained that the motion is to adopt the CR-102 packet on gray paper.

Amendment #1 to Motion #1:

Jon Napier moved to not adopt proposed modification of Section 407.4.3 of WAC 51-50. Tom Kinsman seconded the motion.

Jon explained that this amendment would revert to a new section of the 2009 IBC using model code language relating to smoke barriers. He supports staying with the new model code language on life safety issues, particularly since he doesn't feel adequate information was provided to the Council to deviate from the model code. This proposal received lots of testimony at the public hearings. It was proposed by the Department of Health.

Tom Kinsman spoke in support of Jon's amendment. He faulted the process, that staff didn't distribute amendments to the Council before this meeting. He said it's very difficult to review amendments, understand them and correctly apply them to the CR-102 during an executive meeting. Staff agreed. The problem was that amendments were submitted up to and including this morning. It might be helpful in the future to set a deadline a couple days before the executive meeting so that staff can compile and distribute everything to the Council for review prior to the meeting.

Angie Homola asked whether the model code language to be reverted to is available.

Tom said he had intended to propose an amendment on this item as well. Existing model code language is on the copy of his proposal. Tom said recent decisions at the ICC hearings support the model code language, as proposed in Jon's amendment.

John Cochran said this topic was discussed well at Baltimore hearings. He supports Jon's amendment.

The question was called for on Amendment #1 to Motion #1. The amendment was unanimously adopted.

Amendment #2 to Motion #1:

Jon Napier moved to not adopt the proposed modification of Section 708.14.1 of WAC 51-50. Tom Kinsman seconded the motion.

Jon said this proposal removes Exception 8, relating to elevator lobbies. Tom felt the proposed amendment was well thought out. Removing Exception 8 makes sense because it conflicts with existing exceptions.

The question was called for on Amendment #2 to Motion #1. The amendment was adopted, 11 aye to 1 nay.

Amendment #3 to Motion #1:

Jon Napier moved to not adopt proposed modification of Section 712.9 of WAC 51-50. Tom Kinsman seconded the motion.

Jon said this is a new section in the WAC. His amendment would adopt Section 712.9 in place of the nonadoption proposal.

The question was called for on Amendment #3 to Motion #1. The amendment was adopted, 11 aye to 1 nay.

Amendment #4 to Motion #1:

Tom Kinsman moved to not adopt proposed modification of Section 506.4 of WAC 51-50. Ray Allshouse seconded the motion.

Tom said the amendment deals with the methodology of allowable areas of a building. The issue is whether or not basement floor area should be included in the allowable area calculation of a building. The proposed amendment deals with two sections, 506.4 and 506.5, depending upon whether the building is single-use or multiuse.

Tom's amendment mimics language that was in the 2006 code. He said the model code trades off a single basement level in the allowable area calculation. However, if there are multiple basement areas, it is included in the allowable area calculation. Since 98 percent of basements are parking garages that are sprinklered, Tom favors maintaining the existing state amendment.

John said he thinks he's in favor of the amendment. In the Seattle area, because of topography, the amendment would allow designers more flexibility to deal with larger buildings and multiple basements. Multiple basements would be treated the same way as single basements.

Jon asked a point of order. He said this is a significant change, which may be inappropriate, depending upon whether or not Section 506 was addressed in the CR-102. Tim Nogler said Section 506 is open under the CR-102. Section 506.1.1 contains the current state amendment under the 2006 code. The proposal is to retain that language. Kristyn Clayton asked how this proposal relates to the proposal on page 11 to strike 506.1.1. Tim answered that section doesn't exist in the 2009 IBC.

Tim Nogler reminded Council members that when the Council amends a section in the code, that section is reprinted in the WAC with the section number. Its appearance in the WAC means that it is a state amendment.

Kristyn asked if this proposal was considered by the TAG. Tom said it was not discussed at the TAG level. The reason he's introducing the proposal now is because the TAG overlooked it. Kristyn expressed concern about a new proposal being inappropriately introduced now. Tom disagreed that it's an inappropriate new proposal. Because this proposal is a state amendment, it was struck because the section was struck, not because of the intent of the code. Tom is proposing it because he believes discussion should occur. Kristyn asked if Tom considers this change editorial. Tom said he does view it as editorial. Tim pointed out that it's not a new proposal. It deals with an existing proposal. Tom is trying to carry forward an existing state amendment.

Angie asked for clarification. Tom said his amendment reads, "Basements below the first story above grade plane need not be included..." He said that language is exactly what appears in the 2006 code.

The question was called for on Amendment #4 to Motion #1. The amendment was unanimously adopted.

Amendment #5 to Motion #1:

Tom Kinsman moved to not adopt proposed modification of Section 715.4.8 of WAC 51-50. John Cochran seconded the motion.

Tom said several exceptions to this rule exist in the 2009 code. Exception 3 was added because of a specific problem in Sequim about fire officials inspecting an existing R-2 boarding home facility. While Tom empathizes with the Sequim facility, he said codes should not be amended to solve a specific problem. He added that if the Sequim facility meets all the standards of an I-2 occupancy, the fire official should have the authority to approve doors in that facility not having automatic closures.

Kristyn asked if the Department of Health commented about this proposal. Jon answered that the correct state agency is the Department of Social and Health Services. He said they didn't provide testimony. The only testimony on this proposal was by a Sequim couple from the boarding home facility. Jon said he talked to the Washington State Patrol, the agency tasked with licensing and inspections. That agency takes the requirement for automatic door closures verbatim from the code as a life safety issue.

Jon agreed with Tom. He thinks it's a local decision and objects to a state code being amended for one instance. Other avenues should be explored.

Don Jordan asked about the origin of the amendment. Tom answered that he isn't sure. Jon said it was initiated by the owners of the Sequim boarding home. Angie said because many of the Sequim boarding home patients are ambulatory, residents have great difficulty opening and closing doors. Thus, bean bags and stuffed animals were routinely used to hold the doors open. The Legislature advised the Sequim boarding home to deal with the issue at the local level. The challenge of doing so was that code language didn't allow discretion at the local level.

The question was called for on Amendment #5 to Motion #1. The amendment was unanimously adopted.

Amendment #6 to Motion #1:

Tom Kinsman moved to not adopt proposed modification of Section 1405.6.2 of WAC 51-50. Kristyn Clayton seconded the motion.

Tom said he's changed his position on this amendment dealing with anchored masonry veneer. Originally, because the Seismic Committee of the Structural Engineers Association couldn't agree on the effectiveness of wire ties, he recommended staying with the model code. Then he talked to Tom Young, who told him that the masonry industry's proposal passed International Code Council hearings on the national level. Thus he now believes the Council should maintain this amendment that was in the previous code. Tom noted that the numbering has changed since the 2006 code.

Angie asked for clarification that Tom's amendment eliminates the use of ties. Tom said there would be no ties. Dale Wentworth asked Tom Young to further clarify. Tom said the ties remain but there is no longitudinal wire in the mortar joint.

The question was called for on Amendment #6 to Motion #1. The amendment was adopted, with one opposing vote.

Amendment #7 to Motion #1:

Tom Kinsman moved to amend proposed modification of Section 1010 of WAC 51-50. John Cochran seconded the motion.

Tom said Exception 4 deals with means of egress on ramps. He said because the Seattle amendment failed at ICC committee hearings, he worked with Karen Braitmayer and Marsha Mazz on alternative language that will go to public comment. Jon Siu suggested that this amendment move forward in the state process.

John said he believes this amendment provides a lot of design flexibility.

The question was called for on Amendment #7 to Motion #1. The amendment was unanimously adopted.

Amendment #8 to Motion #1:

Tom Kinsman moved to not adopt proposed modification of Section 3411.8.8 of WAC 51-50. Dale Wentworth seconded the motion.

Tom said he opposes the proposed modification adding “altered” in addition to “added” as a trigger for Type A accessibility requirements. Lacking a definition of “altered” may be problematic. He doesn’t believe minor alterations should qualify as a trigger. Tom said he isn’t anti-accessibility. He agrees with testimony about many Type A units going to healthy, able-bodied people.

Representative Janea Holmquist spoke in support of this amendment. She said she continually hears that people in the industry want certainty, which would not be the case for minor renovations without this amendment. She said that if the proposal is adopted as submitted, with “altered” and “added,” the Legislature may then be asked to define “altered.”

Ray Allshouse also spoke in support of Amendment #8. He said including “altered” would place building officials in a difficult position, having to decide which minor alterations trigger Type A accessibility requirements. He can envision situations where the intended scope of projects is overshadowed in cost by conversions required for Type A accessibility.

Angie agreed with removing “altered.” She said the lack of a definition of “altered” makes the plan review process very confusing.

The question was called for on Amendment #8 to Motion #1. The amendment was adopted, with two opposing votes.

Amendment #9 to Motion #1:

Tom Kinsman moved to not adopt proposed modification of Section 105.3.1 of WAC 51-50. Ray Allshouse seconded the motion.

Tom's amendment strikes the exception to Section 105.3.1 that requires Department of Health (DOH) approval prior to beginning construction of licensed hospitals, hospice care centers, boarding homes, nursing homes, residential treatment facilities and ambulatory surgery centers. He said the issue received debate at TAG meetings. Despite differing opinions, the code change proposal was moved to the public hearing process.

Differences between DOH reviewers and local reviewers may be significant, over a local amendment or an interpretation. While the intent of this change may be good, Tom said it adds an unnecessary step that slows the process. It's very difficult for a design team to work with two different agencies, state and local, about essentially the same code requirements. Tom objects to DOH not recognizing local amendments and the lack of an appeal mechanism at DOH.

Peter said in Leavenworth the Cascade Medical Center is building a new hospital, a new clinic, and remodeling the old facility. The local building department has indicated a couple of times that they are waiting to issue the permit because they haven't heard from DOH. Peter said the proposed modification as written would clarify the approval process.

Kristyn disagreed, speaking in strong opposition to this amendment. She said it's a necessary checks and balances process. Different types of power and water can drastically alter the foundation and flooring, causing millions of dollars in rework if the local jurisdiction isn't completely knowledgeable about end-use requirements that DOH-CRS provides. As a contractor, Kristyn said she "would not want to put her shovel in the ground without DOH approving it."

Angie noted that counties have legislative deadline requirements for issuing permits. She wondered if consultant inspectors required at other times during a project might better move the project along. Kristyn said the current process works well in most cases. Tom disagreed. He said DOH deference to local building officials on general building code, not health, issues no longer occurs. In addition to not recognizing local amendments, DOH disagrees with local building officials about interpretations of the same code language.

Tom said the code reads "must receive authorization to begin construction." Although DOH says that means doing a schematic review of the plan initially with a detailed review later, Tom said the fact is that there's no guarantee of DOH's authorization.

Ray spoke in support of Tom's amendment. He said the issue relates to the responsibility of local jurisdictions to be responsive in the issuance of building permits. More roadblocks added

to the process, particularly those which are beyond the control of local jurisdictions, reduce that responsiveness. Ray's observation is that many DOH requirements deal with operations, totally separate from the building. He said that's particularly true with remodels.

Peter noted that in a perfect world the contractor sends sets of plans to DOH and the local building official simultaneously. Those two officials sit down together in the same room and work out the details. He emphasized that the local building official should not have to wait on DOH.

Representative Bruce Dammeier, serving on a Puyallup hospital board, agreed with Ray. He said the timing of hospital construction is crucial, with costs increasing dramatically the longer construction is delayed. He is concerned about writing a rule around jurisdictions that cannot work effectively with DOH. Bruce puts the onus on local jurisdictions to involve DOH earlier in the process. Because the present system is working in most cases, he's reluctant to change it.

Angie asked what DOH's opinion is about this code change. She doesn't want to "open up a can of worms." Kristyn said the question is whether or not to hold up construction based on a double authorization. She assumed the code change proposal was initiated by DOH. Others confirmed that.

The question was called for on Amendment #9 to Motion #1. The amendment was adopted, with one opposing vote and one abstention.

Amendment #10 to Motion #1:

Mari Hamasaki moved to amend Section 1203.4 of WAC 51-50 by striking "in buildings four stories or less." Tom Kinsman seconded the motion.

Mari said this is an administrative amendment that coordinates the building code with the mechanical code for the definition of "residential." Compliance is changed from the Washington State Ventilation and Indoor Air Quality Code (VIAQ) to the International Mechanical Code (IMC).

The question was called for on Amendment #10 to Motion #1. The amendment was unanimously adopted.

Amendment #11 to Motion #1:

Jon Napier moved to adopt the carbon monoxide proposal. Bruce Dammeier seconded the motion.

Jon said the language for this amendment came from the Washington State Legislature in SB 5561. There was a lot of testimony about carbon monoxide alarms from a doctor who specializes in carbon monoxide poisoning, as well as others in written testimony. This proposal moves the effective date for requiring carbon monoxide alarms in existing dwellings from 2013 to 2011. Since the rule goes into effect in 2010, there will be one year's time for education.

Tim read from statute: "The Building Code Council may phase in the carbon monoxide alarm requirements on a schedule that it determines reasonable, provided that the rules require that by January 1, 2011 all newly constructed buildings classified as residential occupancies will be equipped with carbon monoxide alarms and all other buildings classified as residential occupancies will be equipped with carbon monoxide alarms by January 1, 2013."

Jon said the amendment, in response to SB 5561, adds language that the tenant is responsible for maintenance of the carbon monoxide monitor. However, a more appropriate location in the Landlord Tenant Act is being proposed to the Legislature.

Lastly, the Council received considerable testimony about carbon monoxide poisoning in occupancies that don't have fuel-fired appliances. In many instances, barbeques and generators are brought indoors. In response, language was struck specifying fuel-fired appliances and attached garages.

Peter noted that he found carbon monoxides alarms available at a major building supply retailer for \$18.95. So they aren't a prohibitive cost, and they do save lives. Angie asked if they have to be hard-wired. Peter said they do not.

Janea spoke in support of the 2013 deadline for carbon monoxide alarms in existing buildings. She said \$20 per unit in multi-unit low income housing in her community would represent a cost factor. She agrees with the 2011 deadline for new construction. Representative Timm Ormsby said his understanding is that the statute gives discretion to the Council in meeting an end

deadline. It may be reasonably accomplished sooner. Peter said he got a call from a legislator yesterday that recommends moving everything to 2011.

Angie said the goal of this amendment is life safety. She doesn't want to discriminate against a sector of the population, especially low-income housing residents. In Island County, funding for items such as smoke detectors is furnished for people living in low-income housing. If carbon monoxide poisoning poses a life-safety threat, Angie said the earliest possible protection is preferred.

Tom asked if the fuel-fired and attached garage issues were part of the legislation. Tim said that language comes from the model code. Jon said it's addressed in a paragraph of the legislation. Tim read from the statute: "The Building Code Council may exempt categories of buildings classified as residential if it determines that requiring carbon monoxide alarms are unnecessary to protect health and welfare of the occupants."

Tom said, while he's in favor of this amendment, he thinks there should be discussion about the broader issue of the Council promoting a specific product produced by a specific industry. He said the vast majority of deaths from carbon monoxide poisoning result from people cooking on a barbeque indoors, which he believes they'll continue to do if detectors are required. He also said more people die annually in the U.S. from food poisoning than from carbon monoxide poisoning.

Jon noted that the carbon monoxide industry wasn't the impetus behind legislation for carbon monoxide detectors. Rather it was the medical community that deals with carbon monoxide poisonings.

Ray said he's in support of this amendment. He currently has carbon monoxide detectors in his residence. He supports a January 1, 2011 deadline for new buildings and a January 1, 2012 deadline for existing buildings.

Don supports the need for carbon monoxide detectors, but cautioned the Council about moving too quickly. In small, rural communities with low-income, multiunit housing, Don sees this amendment as a burden for landlords.

Bruce said this amendment expands the application of carbon monoxide detectors to all houses, regardless of fuel-fired appliances or an attached garage, and, at the same time, shortens the implementation. He thinks doing both is a pretty bold move.

Angie said tenants in apartment buildings and low-income, elderly people are the people at risk, who use inappropriate appliances for heating. She's concerned that waiting two years won't help

that sector of the population. The price of carbon monoxide detectors shouldn't be a priority when compared to life/safety.

Timm spoke to the human behavior aspect of the issue. Since carbon monoxide is a substance that can be neither seen nor smelled, he doesn't expect people to ignore monitors, remove them, or take the batteries out. Those sensors are the only indication something is wrong.

Don said he supplies carbon monoxide monitors for all lift equipment his company uses on construction sites. He knows intelligent members of his crew remove the batteries when the alarm goes off. He's sure the same thing happens at their homes. Don doesn't like to force this economic hardship on landlords.

Amendment to Amendment #11 to Motion #1:

Don Jordan moved to change the implementation date to January 1, 2013 for existing buildings.

Jon said the intent of going to 2011 was to coordinate with the change in the Landlord-Tenant Act. He said he really believes that if implementation is 2013, it will be 2015 before carbon monoxide alarms are actually present in homes. That's simple human nature.

Dale spoke against Don's friendly amendment. He agreed with what Jon just said. A 2011 implementation date is needed to get monitors in homes by 2013. If one life can be saved by expediting the date, Dale said that's the Council's duty.

Kristyn Clayton seconded the amendment. The amendment received six aye to six nay votes. Peter DeVries broke the tie by voting to stay with the original date in Jon's amendment. Thus the amendment failed.

Amendment #2 to Amendment #11 to Motion #1:

Ray Allshouse moved to change the implementation date to January 1, 2012 for existing buildings. Bruce Dammeier seconded the motion. The vote on the friendly amendment was six aye to six nay. Peter DeVries broke the tie by voting to stay with the original date in Amendment #11. Thus the amendment failed.

The motion was called for on Amendment #11 to Motion #1. The amendment was adopted by a vote of 10 aye to 2 nay. Tim clarified that this amendment applies to all three codes.

The motion was called for on Motion #1. The motion was unanimously adopted.

Tim Nogler recommended that the Council direct staff to make editorial corrections. He said a number were received from the City of Seattle, correcting such things as misspelled words and the use of the inappropriate word.

Motion #2:

Jon Napier moved that the Council direct staff to make editorial corrections. Tom Kinsman seconded the motion.

John Cochran asked if the motion includes correlative language as well. Tim said Seattle's letter, organized by code, corrects errors in the CR-102. He's not aware of any editorial error that impacts more than one code. However, if any are found, they will be changed.

The question was called for on Motion #2. The motion was unanimously adopted.

Historic Building Code

Motion #3:

Ray Allshouse moved to repeal WAC 51-19, the Historic Building Code. Tom Kinsman seconded the motion.

Tim Nogler said the IBC that the Council just approved includes the International Existing Building Code (IEBC), which is referenced in Chapter 34. The 2009 IEBC has a chapter on historic buildings. Consequently WAC 51-19, in effect since 1992 as a stand-alone historic building code, is an archaic code that is no longer needed. The historic preservation community supports repeal of this WAC.

The question was called for on Motion #3. The motion was unanimously adopted.

International Mechanical Code (IMC)

Motion #4:

Mari Hamasaki moved amendment of WAC 51-52, to adopt and amend the 2009 International Mechanical Code, as proposed in the CR-102. Jon Napier seconded the motion.

Amendment #1 to Motion #4:

Mari Hamasaki moved to strike the definition of “environmental air” in Section 202 and retain Section 501.2.1 as proposed. Tom Kinsman seconded the motion.

Mari said this amendment corrects a conflict that was pointed out by Lee Kranz. Krista Braaksma said the amendment adds “parking garage exhaust.” She said the intent was to establish conformity in the way local jurisdictions handle parking garage exhaust.

The question was called for on Amendment #1 to Motion #4. The amendment was unanimously adopted.

Angie asked why Section 504 on page 19 of the CR-102 was stricken. Krista answered that because that section was adopted into a different section of the 2009 IMC, the state amendment is no longer needed.

Tien Peng asked what a whole house cooling attic fan is. Krista said “cooling” was added to that term to differentiate it from a whole house ventilation system. She said model code language is confusing about whether or not a whole house fan can be vented into the attic. So an attempt was made to clarify that, allowing an attic ventilation fan, providing air movement to cool the house during the summer, but not a whole house fan to vent into the attic. Krista said the existing language, which is also in the International Residential Code (IRC), is “whole house ventilation site attic fans are permitted to discharge into the attic space.” The amendment tries to clarify that doesn’t mean whole house fans. Mari agreed it’s not okay to exhaust a whole house fan in the attic. However attics may be cooled in summer months. Krista suggested the entire section may be stricken.

Don cautioned against unintended consequences. He gave an example of a whole house fan: a 30-inch square fan that is turned on for cooling, pulling in outside air with a couple of open windows, then exhausting into the attic. It may be called a whole house fan or a whole house cooling fan. If the section is deleted, Don said code officials won’t allow the installation of such fans for summertime cooling.

Amendment #2 to Motion #4:

Kristyn Clayton moved amending Section 501.2, Exception 1, to read: “whole house cooling fans shall be permitted to discharge into the attic space.” Tien Peng seconded the motion.

The question was called for on Amendment #2 to Motion #4. The motion was unanimously adopted.

The question was called for on Motion #4 as amended. The motion was unanimously adopted.

Ventilation and Indoor Air Quality Code (VIAQ)

Motion #5:

Mari Hamasaki moved the Council accept the proposed CR-102 for the Washington State Ventilation and Indoor Air Quality Code, with Option 1 to repeal the Ventilation and Indoor Air Quality Code. Ray Allshouse seconded the motion.

Krista said currently conflicts exist between the VIAQ and other codes. There has always been the question of which code takes precedence. This proposal moves the significant portions of the VIAQ into the IRC, IBC and IMC.

Kristyn asked if appropriate changes have been made to the Washington State Energy Code (WSEC) to correlate it with the VIAQ. Krista responded yes.

The question was called for on Motion #5. The motion was unanimously adopted.

International Fire Code (IFC)

Motion #6:

Jon Napier moved amendment of WAC 51-54, to adopt and amend the 2009 International Fire Code, as proposed in the CR-102. Ray Allshouse seconded the motion.

Amendment #1 to Motion #6:

Jon Napier moved an amendment to Section 915.5 and 915.6. Tom Kinsman seconded the motion.

Jon said this amendment corrects misplacement of the exception. It applies to audibility but was mistakenly placed under visibility.

The question was called for on Amendment #1 to Motion #6. The amendment was unanimously adopted.

Amendment #2 to Motion #6:

Jon Napier moved an amendment to Section 915.4.2.1, changing “systems” to “signals.” Dale Wentworth seconded the motion.

Jon said this amendment corrects a wrong word that was used.

The question was called for on Amendment #2 to Motion #6. The amendment was unanimously adopted.

Amendment #3 to Motion #6:

Jon Napier moved an amendment to Section 903.6.3, changing the deadline date for the automatic sprinkler requirement in nightclubs to the original date of December 1, 2009. Dale Wentworth seconded the motion.

Jon explained that the Fire Code TAG received testimony supporting retention of the original date.

The question was called for on Amendment #3 to Motion #6. The amendment was unanimously adopted.

Amendment #4 to Motion #6:

Tom Kinsman proposed an amendment to Section 4604.1. Jon Napier seconded the motion.

Tom said he has some concerns with Chapter 46 of the fire code. He said it's a new chapter that mainly compiles existing code language that was scattered throughout the code. Tom said he supports having all regulation, building and fire, under the control of one official, either the fire marshal or the building official in a local jurisdiction. Consolidating the chain of command that way would educate the two sides much better, creating much more consistency in code interpretation.

Speaking as an architect working throughout the nation, John said the question of who has authority, the fire marshal or the building official, is a real problem. He supports Tom's amendment.

Tom's other point is that Chapter 46 represents an enormous liability for building owners. He believes that because building owners don't know about the fire code or the building code, until inspections show noncompliance. And he suspects, in many cases, Chapter 46 is not being enforced.

Tom said his amendment modifies an amendment proposed by the Fire Code TAG that establishes detailed standards for egress and existing buildings.

The question was called for on Amendment #4 to Motion #6. The amendment was unanimously adopted.

Amendment #5 to Motion #6:

Tom proposed an amendment to Exception 2 in Section 903.2.3, deleting the phrase "calculated in accordance with Table 1004.1.1." Bruce Dammeier seconded the motion.

Tom said Washington exceeds the model code in requiring all Group E occupancies to be sprinklered. One exception to that requirement is for Group E occupancies with an occupant load of 50 or less. Tom misunderstood that daycares were included in that exception. He thinks they should be included because most are low budget operations that may be housed in old buildings. Requiring such facilities to be sprinklered could be economically unfeasible.

Tom's understanding is that the Fire Code TAG proposed the amendment because of difficulties enforcing the sprinkler requirement throughout the state. Those difficulties many times arose because of discrepancies between fire official and building official interpretations.

The amendment deals with occupant load calculations, which generally include a density factor. Tom believes this amendment restrains the building code with respect to calculating occupant loads. He said it represents a prime example of fire official/building official discrepancies. It's a "proposed regulation in the fire code that's trying to control what the building code says."

John asked if the table reference is in the IBC. Jon answered yes, it's the same.

Jon spoke in support of the TAG recommendation, against Tom's amendment. He said it's unrealistic for the Council to believe it can fix discrepancy problems between fire and building officials. Locals have to figure it out on their own. Jon said rather than a fire official issue, it's a State Patrol issue, in their application of licensing requirements for daycare facilities. The intent of the TAG recommendation is to get consistent application of the calculation method throughout the entire state. Jon said the calculation method in no way impacts the authority of the building official to establish occupant load, egress width or emergency lighting. The sole purpose of the table is to determine if the threshold has been reached for sprinkler requirements. Jon said the Fire Code TAG includes WABO representatives and architects among its members.

Angie asked if Table 1104.1.1 appears in both the IFC and IBC. Tom and Jon both agreed the same table appears in both codes. Angie then asked if design criteria are the same. Tom said it depends on whether you deal with gross or net area, or whether there are fixed seats. He said the building official has the authority to make adjustments.

Tom said according to Table 1004.1.1 in the fire code, the net area of classrooms is what determines whether sprinklers are required. Ancillary, accessory rooms are not considered. By comparison, office areas use gross area, including accessory rooms. The proposal, according to Tom, reduces flexibility. He thinks it's a mistake.

Ray said the determination whether or not an automatic sprinkler system is required in Group E occupancies is based on an occupant load factor of 50. The problem is that state officials doing licensing use the simple approach, the size of the building regardless of actual use. Ray said if the Council approves this proposal it says, "We say 50, but we really don't mean 50. We mean the equivalent of what 50 would be on the calculated table." Ray suggested revealing the real intent, which is to sprinkle according to size without regard to actual use.

John spoke against Amendment #5 to Motion #6. He said the exception to Section 903.2.3 is clear as proposed by the Fire Code TAG.

Kristyn asked what the appeals process is for building owners who contest having to install sprinkler systems. Jon said he isn't sure, other than its licensing through the Department of Early Learning. Tom said there is an appeals process at the local level. Jon agreed.

Ray said in his jurisdiction buildings bigger than 5,000 square feet must be sprinklered regardless of occupancy. Zoning codes restrict the size of daycare operations to 30.

Tom said if this section is written in terms of fire area, that term is clearly defined in the model code. But he said there is a difference of opinion about how to calculate net area.

The question was called for on Amendment #5 to Motion #6. The amendment failed adoption.

The question was called for on Motion #6. The motion was unanimously adopted.

International Residential Code (IRC)

Ray Allshouse said the residential fire sprinkler proposal has two options, voluntary adoption by homeowners or adoption by local jurisdictions as an appendix chapter. In addition, a WABO compromise moves it to the appendix and deletes the requirement for Council approval. The alternative is to leave the sprinkler requirement as it stands in the model code.

Motion #7:

Ray Allshouse moved amendment of WAC 51-51, to adopt and amend the International Residential Code, as proposed in the CR-102. Jon Napier seconded the motion.

Amendment #1 to Motion #7:

Ray Allshouse moved that the Council not adopt proposed modification of Section R313. Jon Napier seconded the motion.

Kristyn said the report from the Council to the Legislature on Voluntary Residential Fire Sprinkler Systems strongly recommended education. She asked how the education effort will differ if sprinklers are mandated compared to if the sprinkler requirement is in an appendix chapter. Jon answered that since the report to the Legislature, a centralized organization has been established in Washington to deal with residential fire sprinkler education. A Washington

Fire Sprinkler Coalition was formed, with the sole intent of educating the public. It's sanctioned by the National Fire Protection Association (NFPA), has a website, and meets twice quarterly. In addition, by moving it to the appendix, it enables local jurisdictions to adopt it without needing Council approval. Kristyn said her fear is that moving the sprinkler requirement and education about that requirement to the appendix makes them more hidden. By comparison, having the requirement mandated increases its exposure and the education effort.

Ray said the fire service won't let this issue die. The problem is barriers identified by the Council in its report to the Legislature. Those barriers still exist and influence cost, such as the liability of water purveyors and protection of the quality of water supplies. Ray agreed with Jon about education. He said it will take place because of the number of stakeholder groups interested in this issue.

Ray clarified his motion. A yes vote makes residential fire sprinkler systems mandatory. Jon said the motion on the floor is to strike R313 in the CR-102, adopting model code language requiring sprinklers in the State of Washington. Tim said if the Council wishes to move the sprinkler requirement to the appendix, this motion should be amended. Jon said modifying the appendices is best done in the administrative section of the code. Bruce Dammeier said any amendment can be proposed to an amendment as long as it's under the base motion, which is to adopt the IRC.

Kristyn read model code language that applies if Amendment #1 to Motion #7 passes:

R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler systems shall be installed in townhouses.

Exception. An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.

R313.1.1 Design and Installation. Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with Section P2904.

R313.2 One and Two-Family Dwelling Automatic Fire Sprinkler Systems. Effective January 1, 2011, an automatic residential fire sprinkler system shall be installed in one and two-family dwellings.

Exception: An automatic residential fire sprinkler system shall not be required for additions or alterations to existing buildings that are not already provided an automatic residential sprinkler system.

R313.2.1 Design and Installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with Section P2904 or NFPA 13.

Ray said he believes it's premature to make automatic residential fire sprinkler systems mandatory at this time.

The question was called for on Amendment #1 to Motion #7. The amendment failed, by a vote of 4 aye to 8 nay.

Amendment #2 to Motion #7:

Ray Allshouse moved the Council not adopt Section R313 and make sprinklers voluntary. Jon Napier seconded the motion.

Jon clarified that the motion is to not adopt Section R313, thereby not utilizing the model code language, and striking the proposed R313.1 language providing for voluntary sprinkler systems. Thus Washington State would be silent on R313. In response to Janea Holmquist's question, Jon said this proposal is recommended by the Building Industry Association of Washington (BIAW). Jon continued, if the Council decides to not adopt voluntary sprinklers, R313 must not be adopted, because the Council already decided not to adopt the model code.

Kristyn asked if there's another option. Jon said there are three options: (1) make sprinklers mandatory, which previously failed; (2) put the requirement in the appendix; or (3) make them voluntary.

Angie noted that if the sprinkler requirement is placed in the appendix, local jurisdictions have the option to adopt it, without Council approval, because the Council has adopted model language that local jurisdictions may choose to adopt.

Bruce said Amendment #2 is voluntary adoption by local jurisdictions with Council approval. Jon said to achieve that, a no vote is required. On the other hand, the WABO proposal requires a yes vote.

Tom said the Council has voted on local sprinkler amendments on several occasions. He has opposed such approval, in most cases, because he thinks there is some validity to state control over local amendments with respect to one- and two-family dwellings. Tom believes the need for uniqueness in local jurisdictions hasn't been respected enough by the Council.

Janea spoke against the proposal. She thinks it's important that sprinklers remain a local option. Flexibility is needed in rural areas. She said her district has many different water districts, all with different hookup fees. Two meters may be required and fees for increased loads. Some

rural water systems simply aren't designed to meet the requirements. Timm served with Janea on the Housing Committee. She's very concerned that the cost of home ownership stays affordable to low- and middle-income families. She's against a state mandate in this business climate, particularly when it puts Washington homebuilders at a competitive disadvantage against manufactured housing and builders in other states that don't have to follow the same rules.

Peter restated that a yes vote means that local jurisdictions may require fire sprinklers without needing Council approval.

Dale asked Jon if fire departments have a time limit for responding to fires. Jon answered there are two standards, NFPA 1710 and 1720. In addition, several years ago the Legislature passed a bill that requires local fire departments to evaluate their response times and provide that information to the authority overseeing them. The goal they try to meet is 90 percent of that equivalency of time. Dale said automatic residential fire sprinkler systems help offset the cost of fire departments having to add units and manpower to upgrade the level of their response, that cost being born by all homeowners in the fire district.

Jon acknowledged that there are many barriers to residential sprinkler installation. He thanked legislators attending this meeting, because legislative help is needed to overcome those barriers.

Angie agreed fire protection is paid for by Washington's citizens, one way or another. She said the difference is that fire protection through fire departments is established by levies, which people may or may not vote for.

Janea suggested that the Council may wish to follow the Legislature's practice of authorizing staff to write effect statements, detailing the exact effect of amendments.

The question was called for on Amendment #2 to Motion #7. The amendment was adopted by a vote of 9 ayes and 3 nays.

Amendment #3 to Motion #7:

Ray Allshouse moved that "an approved automatic fire sprinkler system shall be installed in new one-family and two-family dwellings and townhouses in accordance with Appendix R." Amended language in Appendix S is also included in the motion. Tom Kinsman seconded the motion.

Ray said this amendment is the Washington Association of Building Officials' (WABO's) proposal. It allows local amendments requiring mandatory residential fire sprinkler systems at

the option of local jurisdictions without Council approval. It changes the appendix chapter in the CR-102 from S to R, because flow-through systems may be precluded by S.

Janea questioned using "...shall be installed..." She said it sounds like a mandate. Ray answered that language is used because it's consistent with the base model code. Using it ensures that any system installed to those technical standards doesn't require Council review. Janea asked where in Appendix R it states that the sprinkler requirement is not mandatory. Ray answered that placement in an appendix, by definition, means it's not mandatory.

Tim said this is an amendment to Appendix S under Section 107.1. It strikes the reference to Section 903.1 in the IBC and directs you to Appendix R, which is the prescriptive method under the IRC for installing sprinklers. It provides a range of installation options.

Peter asked if local jurisdictions wanting mandatory fire sprinklers install sprinklers according to these standards. Tim answered yes, they adopt Appendix R. Peter then asked for clarification that local jurisdictions do not have to seek Council approval of their local amendments. Tim agreed. He said Council policy allows preapproval of local amendments. However, he noted that local jurisdictions are still required to notify the Council. They just no longer have to seek approval.

Bruce asked if local jurisdictions can adopt sprinkler requirements for a part, but not all, of the jurisdictions. He asks the question because planned developments in one area of his district have been approved with almost no setbacks and roads too narrow to allow fire truck access. So he wonders if his local jurisdiction could require fire sprinklers only in such "fire trap" areas. Several members simultaneously answered yes. Jon said it would probably be done by SEPA, assuming the county allows that type of development under the guise of SEPA. He said SEPA sets that threshold, but it isn't applied equally in all counties throughout the state. Angie asked if Jon was referencing the comprehensive plan and the zoning ordinance. Jon said no, just the State Environmental Protection Act. It covers direct impacts of such a development on service and the community. Tom said a local jurisdiction could pass an ordinance that covers a certain quadrant of the jurisdiction, that doesn't have to be tied to a development. Then it wouldn't be covered by SEPA. Tom's not aware of any prohibition to a local jurisdiction to adopt a local ordinance for certain areas of the jurisdiction.

Ray said this issue, from the beginning, was controversial. The Residential Code TAG's intent was to disclose all options to the public. Unfortunately doing so complicated the proposals.

Jon asked why the proposal strikes the reference to Section 903.3.1 of the 2009 IBC. Ray answered because the standards already exist in the IRC, addressing all the various options and tools that are available for installing a compliant sprinkler system. Tom said this proposal really

amends Appendix S. It switches from Section 903.1, which is a fire code sprinkler standard, to Appendix R, which has this option as well as the 13D system that is right out of Section 903.1. Tim said it's the charging language that would be adopted locally. He said adopting Appendix S makes it mandatory. Then it references Appendix R for the installation standard.

The question was called for on Amendment #3 to Motion #7. The motion was adopted unanimously.

Amendment #4 to Motion #7:

Ray Allshouse moved an editorial amendment to Section R302, Table R302, Footnote B, so Footnote B reads in the same context as Footnote A. Angie Homola seconded the motion. The motion was unanimously adopted.

The question was called for on Motion #7, the main IRC motion as amended. The motion was unanimously adopted.

Uniform Plumbing Code (UPC)

Motion #8:

Dale Wentworth moved amendment of WAC 51-56 and WAC 51-57, to adopt and amend the 2009 Uniform Plumbing Code, as proposed in the CR-102. Jon Napier seconded the motion.

Amendment #1 to Motion #8:

Dale Wentworth moved to modify Section 908.2.1, with the following additional sentence: "The water closet fixture drain or trap arm connection to the wet vent shall be downstream of any fixture drain or trap arm connection." Angie Homola seconded the motion.

Dale noted this sentence is part of the model code language. Ray asked Dave Cantrell to explain TAG rationale for opposing CR-102 language. Dave, said there has never been a requirement for the water closet or toilet to be the most downstream fixture. The Plumbing Code TAG deleted the sentence because there is no documentation of the problem. No documentation exists. Dave said the UPC stands alone in requiring the toilet to be the most downstream. He's

concerned because all fixtures must be within design distances from the horizontal wet vent. Placing the toilet the most downstream may cause it to be too great a distance from the vent.

Jon asked for clarification that Dave proposes moving away from the model code used in Washington. Dave said he opposes 2009 language, which was changed from the 2006 code, despite the lack of documented failures.

Dale said as fixtures become more water efficient, there will be less water available to move refuse down the line. Having water closets the most upstream fixture will cause more plugged lines than having a sink or shower upstream to help the product move through the system.

The question was called for on Amendment #1 to Motion #8. The amendment was adopted by a vote of 10 aye to 2 nay.

Amendment #2 to Motion #8:

Ray Allshouse moved modification of Section 402.3.1.3.1, removing the last sentence: “Where nonwater urinals are installed, they shall have a water distribution line roughed in to the urinal location to allow for the installation of an approved backflow prevention device in the event of a retrofit.” Kristyn Clayton seconded the motion.

Ray said the UPC is a minimum code. He opposes the proposal because it’s a disincentive for the installation of nonwater urinals. Dale cited examples of facilities removing nonwater urinals: community colleges, the Seattle Opera House, the new courthouse. He said because maintenance of nonwater urinals is very costly and customers aren’t satisfied with them, they are being removed. The problem is that after removal, the cost of adding a water line is significantly more expensive than roughing it in.

Tom spoke in favor of Amendment #2. While technology needs to be improved, waterless urinals save lots of water. He thinks water conservation is more important than some problems that he knows have occurred. Jon spoke against the proposal, recommending staying with current law another code cycle, until technology improves. He agreed with Dale that retrofitting is a huge cost that is also destructive to the building.

The question was called for on Amendment #2 to Motion #8. The amendment failed, by a vote of 5 aye to 7 nay.

The question was called for on Motion #8. The motion was unanimously adopted.

The Council adjourned for an executive session for approximately one hour, per RCW 42.30.10, to discuss potential litigation with legal counsel. The meeting was reconvened at 3:53 p.m.

Washington State Energy Code (WSEC)

Motion #9:

Kristyn Clayton moved amendment of WAC 51-11, to adopt and amend the 2009 Washington State Energy Code, as proposed in the CR-102. Jon Napier seconded the motion.

Kristyn asked for an estimate of the number of amendments proposed to the WSEC. Concerned about the time limitation, she said she personally knows of 18 at this time. Bruce said he has up to seven amendments. Janea asked to have the amendments numbered and passed out as soon as possible.

Amendment #1 to Motion #9

Representative Bruce Dammeier moved to postpone consideration of updates to the WSEC, WAC 51-11 until the next code cycle in accordance with Senate Bill 5854, Chapter 423, Laws of 2009. Senator Janea Holmquist seconded the motion.

Bruce said the purpose of his motion is to give the Council adequate time to consider WSEC proposals from a holistic standpoint. Although he really appreciates the work of the Energy Code TAG in producing some really good proposals, he has concerns. First, he's concerned about the aggregate of WSEC proposals. The proposed changes are, in the words of Stan Price, unprecedented. Bruce considers that problematic, "flying in the face" of SB 5854. That bill gave "a strong message of deliberate consideration, with a view toward incremental growth and moderation, particularly early in the cycle." Bruce thinks incremental, moderate growth is very important, given the fragile state of Washington's economy. He said that need is emphasized by JARRC letters sent to the Council.

This state's chief economist, Chang Mook Sohn, recently said Washington may be entering a second round of economic challenges. He pointed out that this recession has been especially hard on the construction industry. Housing is down over 30 percent, and the commercial industry is still in decline. In response to a question by Bruce, Mr. Sohn said he believes green

jobs are, for the most part, altering existing construction rather than building new construction. Bruce said there are two primary drivers of state revenue in Washington State: sales tax, including a huge construction component, and real estate excise tax.

Bruce said he's also concerned about the impact on local municipalities. There will be a tremendous cost for training and implementation of such unprecedented changes. He thinks the JARRC is clearly telling the Council that the cumulative impact of all proposed energy code changes may have a significant impact statewide.

With a present standing of seventh in the nation in energy conservation, Bruce sees no overwhelming need to push ahead aggressively to move up the ladder. He is, however, a strong supporter of energy conservation. He supports many, many of the energy code change proposals. It's the aggregate of those changes that concerns him.

Kristyn asked a point of order, how Bruce's motion fits with the motion on the table, which is to approve the WSEC as modified. She asked if Bruce is speaking against her motion. Bruce said his motion is to defer action on energy code changes until the next code cycle. It would negate working the other 24 amendments. He prefers deferral for a specific time period, instead of tabling for a temporary, undefined period. Janea suggested that Kristyn view Bruce's amendment as a striking amendment.

Angie asked everyone to be mindful of time constraints and respectful of other Council members and the amendments they propose. She suggested limiting the dialogue. Bruce disagreed with such limitation. He said the purpose of the Council is to discuss issues that affect the health and safety of Washington citizens. Discussions, in his opinion, should be held without time constraints. Angie said it's important to look to the future and view the economy realistically. If Washington maintains the status quo with the WSEC, it's unrealistic to expect sales tax and real estate excise tax receipts to immediately increase. Now is when the state has received \$15 million of federal government/Puget Sound Partnership funds to clean up and move forward protecting the state's resources. That's where the jobs will be. If jobs are lost to foreign countries, the economy will only worsen.

Tien said these are extraordinary times of economic crisis and climatic change. He wants Washington State to make a big impact, because small increments or status quo for energy conservation goals don't breed the American ingenuity needed. More time is needed than an hour to work through all the energy code proposals. He wants to take advantage of all the work of the Energy Code TAG.

Speaking to Bruce's statement about "flying in the face of SB 5854, Kristyn said she interprets the letter from that bill's sponsors very differently than Bruce. She said the letter noted the intent

was to not impact current Council work, and certainly not to postpone work on the energy code until 2013. Having attended meetings throughout the evolution of SB 5854, Kristyn said she as TAG Chair was told how much the bill's sponsors recognized the good work of the Energy Code TAG.

Tom also spoke in opposition to Amendment #1 to Motion #9. He said controversies will be resolved, with the removal of proposed code changes from the final document. But given the amount of work already done by the Energy Code TAG, the changes need to be considered now.

Janea, with due respect to Representative Dammeier and the sponsors of SB 5854, disagreed with Kristyn about the legislative intent. The letter from SB 5854 sponsors clearly states: "The Council **shall** adopt state energy codes from 2013 through 2031 that incrementally move toward..." As a member of the Senate Energy, Water and Environment Committee, Janea has debated energy conservation many times. Kristyn said the sponsors of SB 5854 relied on this code cycle to make some incremental improvements to the code. Jon added that the Council, during its normal rulemaking process, always improves the code. Kristyn said before the 2030 Initiative, there has never been a directive to increase energy efficiency by 70 percent by a specific date. The 2030 Initiative is a national and global initiative for climate change legislation.

Don Jordan said, rather than postponing action for three years, a solution may be to file a supplemental notice requesting an extension. That would allow all issues to be revisited. The Council could receive additional testimony if needed for clarification. An extension would allow the Council to work into 2010, delaying adoption only one year. Sandra Adix said she believes Don's talking about filing a revised CR-102. Don agreed. Sandra said to do that, new language must be proposed, then the issue is returned to public hearing. Kristyn asked if the language is needed today. Sandra answered no; the language is not needed now. But the decision can be made today to amend the CR-102. Tom asked who decides, the Council or the TAG. Kristyn said she doesn't believe it can go back to TAG. Tim said it would be a Council decision whether or not to do this and to define the procedure. Peter asked if additional public hearings would be required. Tim answered yes. Peter asked if they would have to be held in Spokane and Seattle. Krista said only one public hearing would be required. Jon noted there is time before December 1 to hold an additional meeting if necessary.

Kristyn said it's important for Council members to understand these 25 proposals, because they are significant. Five, such as air leakage, and Chapter 12, address economic issues. She wants to give adequate time for Council consideration and discussion. Kristyn said if everyone is amenable to another meeting, she thinks that's a good idea. She asked members to go into such a meeting knowing it may be lengthy.

Ray spoke in opposition to Bruce's amendment. He said the organized resistance to the energy package doesn't oppose all of the package. The construction industry has heartburn with pieces of it. If those pieces are modified or removed, the rest of the package is acceptable.

Angie spoke against deferral. She said picking it up at a future date would be really challenging. Once improvements are made to this package, the next step will be how to incorporate it with the IECC. Kristyn noted that about one-third of Council members' terms will expire at the end of 2009. That represents a loss of education on this issue, because new Council members will come in cold.

Mari asked if the December 1 deadline has any flexibility. Jon asked what specifically has to be done by December 1. Tim said the adoption decisions have to be made prior to December 1.

Bruce Dammeier withdrew Amendment #1 to Motion #9.

Various dates for another meeting before December 1 were considered for potential attendance. It was finally decided to hold the additional meeting on Friday, November 20.

Kristyn suggested discussing Chapter 9, because it impacts other proposals. Tim said at least four amendments will be proposed to Chapter 9.

Timm suggested the Council resolve the small business economic impact statement (SBEIS) question that was raised by JARRC. He said he wants to expedite discussion of the economic impact and the return letter to JARRC before discussion of any energy code specifics. Kristyn agreed to a JARRC discussion. Timm said the assertion in the JARRC letter is that work on the WSEC was not done in accordance with statute. The previous JARRC letter, in addition to mandating a SBEIS, requested a cost-benefit analysis. Tim said, in its first letter and at its hearing on the subject, JARRC did request that the Council complete and file with the Code Reviser a revised SBEIS. He said whether or not the Council does that is dependent upon the Council's decision about whether or not to adopt the WSEC. As long as such a decision hasn't been made, there is no answer. Timm said the question is, separate from adoption of the WSEC, does the Council agree to use SBEIC information in making its code decision?

Kristyn noted it depends upon the energy code package. She believes current data would have to be revised, but she asked Jeff Harris, Chuck Murray and a few others for agreement. Tim said if amendments address economic factors identified, they're part of the mitigation process. Kristyn said it's kind of a Catch 22 situation. While the data may be skewed because portions of the code proposal package are deleted, it's good information to have. She asked if notifying JARRC that the Council is holding another meeting is a valid response. Sandra advised that it is.

Jon said he thought JARRC asked for data from people with “boots on the ground.” He said the Council has lots of data from the Department of Commerce and the Energy Alliance. But JARRC wanted more from the building industry. Tim said the JARRC letter referenced suppliers and people in the industry. Jon said his understanding is that data currently available was based on receipts to utilities that reimbursed homeowners, contractors and other installers of materials. Timm said those are actual numbers, based on receipts for reimbursements from utilities. Jon said data collection involved 4,000 receipts. Kristyn said it’s very defensible data.

Kristyn said the disproportionate impact on small business was addressed in the Council’s response to JARRC, with the issues separated out. The remaining response was an overall 97-item cost-benefit analysis. Janea asked what data was received from builders. Tim said data was received, through testimony, estimating costs to homebuilders for residential and nonresidential energy code provisions relating to envelope and mass walls.

Bruce noted that cost estimates from the construction industry and energy organizations substantially differ. He cautioned against relying totally on either one in determining the SBEIS, noting that a figure somewhere in the middle is more realistic. Bruce suggested doing some analysis and presentation of testimony received and producing some reasonable assumptions, based on that data, about a reasonable range.

Kristyn asked about filters on the data. Timm said that question goes back to the veracity of the data. He said it’s already been established. There are national standards. He’s sure the Department of Commerce Energy Program has their standards for acceptable data.

Angie asked about closure of the period during which data can be submitted into the record. She asked if additional data can be solicited now. Sandra said if Angie’s talking about continuing today’s rulemaking meeting to another day, additional comment would not be accepted. However, if Angie’s talking about filing an amended CR-102 for an amended, proposed rule, that triggers additional public input.

Kristyn said the Council could move today to send a response letter to JARRC, detailing the extension and the intent to file a revised SBEIS. Jon said doing so would change the effective date. Tim said filing a revised SBEIS with the Code Reviser begins a new cycle: a 30-day wait, holding a hearing, then another wait before adoption.

Motion #10:

Kristyn Clayton moved to table, until November 20, 2009, Motion #9 to amend WAC 51-11. Dale Wentworth seconded the motion. The motion was unanimously adopted.

Peter said the WSEC will be the sole agenda item on November 20.

Motion #11:

Kristyn Clayton moved the Council send a letter to JARRC that states this is not the appropriate time to do a revised SBEIS. The letter would include extra data collected by the Council that answers JARRC questions.

Amendment to Motion #11:

Angie Homola moved the letter to JARRC not state that it isn't the appropriate time, but rather that the SBEIS already submitted is sufficient. The letter would include additional information that may be helpful to JARRC.

Kristyn said she wants to include data on job creation. Everything the Council currently has is supposition. Peter said that data may not be available. Kristyn suggested saying, "We realize that job creation/job elimination is of vital concern to the Legislature. We're not sure exactly how to address it." Janea said job creation figures are available. She said the housing industry may have such data. It was agreed it might be helpful to consult legislative counsel about this issue. Janea said she'll try to get someone to attend the November 20 meeting. Kristyn pointed out the supplemental data would not be used to produce a revised SBEIS. The SBEIS currently on file lists "unknown" for the job creation category.

Representative Timm Ormsby seconded the motion.

Timm would like to answer the question raised by JARRC in its second letter about "not done in accordance with the applicable provisions of law." He said that's a serious assertion that appears unfounded. Sandra said JARRC is saying the Regulatory Fairness Act was not followed in all respects. She said the question is really about degrees, were things looked at deeply enough, was the RFA sufficiently followed. Peter asked Tim to draft a response to JARRC's second letter with the assistance of legal counsel. Tim agreed.

Bruce said the Council currently has a wealth of information. If that data were consolidated, a rational case could be made that the Council considered economic impacts, is able to make a reasoned judgment about economic range and a reasonable assumption about job loss and creation, perhaps with the assistance of legislative staff. In Bruce's opinion, the current SBEIS is adequate; a revised SBEIS is not required. He suggested that the response might point out that

filing a revised SBEIS would adversely impact the current rulemaking cycle. Timm added that the response should clarify important dates during the process and the Council's responsiveness to and respect for JARRC.

The question was called for on Motion #11. The motion was unanimously adopted.

Angie encouraged members to view data with scrutiny. Some have validity, depending on where they came from. But she found, after a few calculations and phone calls, some of the data was inaccurate.

Kristyn asked that energy code packets be distributed to members before the next meeting. Tim said since most proposals are available electronically, he'll e-mail them out. Janea asked for effect statements, if time permits.

2010 MEETING SCHEDULE

This item was deferred for future consideration.

2010 APPOINTMENTS

Tim said staff is working with a number of Council members whose terms expire on January 5, 2010. Those five members include Peter, Jon, Don, Tom and Jerry. Tim said those members can continue to serve until the Governor appoints new members.

Dean Bault, from Yakima, has been appointed by the Governor as a new Council member. Dean will represent people with disabilities. With Dean's appointment, all seats on the Council are filled.

OTHER BUSINESS

Interpretation Request from City of Leavenworth

Tim said this interpretation request was held over from the last Council meeting. The City of Leavenworth is waiting for a response to their question about whether expansion of a wine tasting business changes the occupancy classification of the building.

Tim said this interpretation is about an existing two-story building with a full basement. The first floor is 4,109 square feet. Two stories above are classified as mixed use, S-2. The 4,588 square foot main floor is divided by a one-hour fire resistant wall into two areas. The smaller area is 1,575 square feet. A second wine-tasting business is located within the larger retail space. Customers are allowed to move freely between the retail space and the two wine-tasting areas. The building owner is now proposing a third wine tasting business, 200 square feet in area, open to the first floor. Based on the information given, Tim said the occupancy classification appears to be A-2. Those portions of the building classified as A-2 would have to be sprinklered.

John asked if separate tenants run the various wine-tasting businesses. Tim answered yes.

Tom said this interpretation represents a complex problem, “a big can of worms.” He said the plans that were submitted to the Council are very poor. He thinks errors have been made in the past, and now errors have been made about the assignment of occupancies. Areas in the building are called S-2 because they have bottled wine stored in wine racks. However they are really S-1 because they are combustibile. There are also egress problems. Tom said it’s such a confusing story, he suggests the Council recommend a professional analysis be done of the building by an engineer or an architect. He doesn’t think it’s a good idea to simply answer that the building is an A-2 and must be sprinklered. Ray said that’s what he would do.

Tom said the building official might be able to get a sense of whether or not the building owner is abusing the unusual mix of retail and storage. He said he’d also like to see a plan with the furniture laid out. Peter said he visited the building, and there were only five or six people tasting wine. Tom noted that more people may show up in the future, though. Peter agreed it might happen.

Kristyn asked Tom if he’s saying not to respond as an official interpretation. Tom answered that he suggests the official interpretation state that because of the unique, complex mixed use of the building, the Council recommends that the building official require a professional analysis by an engineer or an architect before expansion of the wine-tasting business on the second floor. The building official should use that analysis in determining the occupancy classification of the building and whether or not to require sprinklers. Tim suggested the best way to respond would be a letter instead of a formal interpretation.

It was decided that such a letter be sent to the building official of the City of Leavenworth.

OTHER BUSINESS

Tim said the November 20 meeting will begin at 9 a.m., at the Seattle Area Pipe Trades.

ADJOURNMENT

Peter adjourned the meeting at 5:10 p.m.